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10/516,965

02/11/2005

James Smith

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06/23/2009

Husch Blackwell Sanders, LLP

Husch Blackwell Sanders LLP Welsh & Katz

120 S RIVERSIDE PLAZA

22ND FLOOR

CHICAGO, IL 60606

EXAMINER

CROUSE, BRETT ALAN

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

06/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/516,965 | Applicant(s) SMITH ET AL. | |
| | Examiner Brett A. Crouse | Art Unit 1794 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. This office action is in response to the amendment, filed 27 February 2009, which amends claim 22 and cancels claim 39. Claims 22-27 are pending.

Response to Amendment

2. The rejection(s) of:
claim 22-27 and 39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement
is overcome by the amendment, filed 27 February 2009.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baillie et al., WO 02/075205, in view of Vakil, US 5,634,820 and 10516965 Stob, US 4,991,070.

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Baillie teaches:

As to claim 22:

Page 2, lines 5-10, teach that the light fittings are used in proximity to an artificial light source and comprise a luminescent material which is charged by the light emitted by the light source and which emits light when the light source is extinguished. This is held to teach that the luminescent material satisfies the limitation of a phosphor of the instant invention.

Page 4, line 20 through page 5, line 7, teach that the light fittings of Baillie include light and lamp shades, light reflectors, light bulbs, light tubes including fluorescent light tubes, covers of light sources, strip light protective sleeves. The passage additionally teaches that the articles can be covered in part or in their entirety.

Page 5, lines 11-13, teach the light fitting can be in proximity to the light source. This is held to encompass being spaced from the light source.

Page 6, lines 12 through page 7, line 7, teach that the base material should preferably be of high clarity to allow transmission of light. The passage additionally teaches that the luminescent material can be incorporated into the base material or can be provided as a film or coating upon the base material.

Page 11, lines 9-15, teach the fitting providing connection pins for a fluorescent tube.

Baillie provides a fluorescent tube in which the mounting (i.e. the fitting of Baillie) encompasses the tube by being integral with the tube and provides connection pins for the fluorescent tube as part of the mounting. Baillie also teaches sleeves which can

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encompass a light tube. Baillie also teaches protective sleeves spaced in proximity to the tube.

Baillie does not teach:

Baillie does not provide a teaching of friction fit end piece as part of a sleeve encompassing a fluorescent tube. Baillie also does not recite equidistant spacing for a fitting from the fluorescent tube.

Regarding the use of a friction end cap:

Vakil teaches:

Claims 5 and 10, column 7, lines 48-51, figure 2, teach a friction fit end cap to a fluorescent light fixture.

Column 5, line 48 through column 6, line 3, figure 7, teaches the end cover portion can alternatively be fixed and the end cap can allow for direct mating with the base.

Motivation:

It would have been obvious to one of ordinary skill in the art to provide a sleeve encompassing a light tube as taught by Baillie which employs friction fit end pieces such as taught by Vakil, which allow the connection pins of the light tube of Baillie to penetrate to allow connection to a socket as taught by Baillie so as to enable the application of the sleeve, which can encompass up to the entire tube, to a light tube by providing an opening in the sleeve and end pieces for completely encompassing the tube once the tube has been inserted into the sleeve thus providing a means to use the frictional attachment of the end cap to secure the sleeve upon the light fixture.

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Baillie teaches:

As to claims 23-25:

Page 5, line 14 through page 6, line 2, teaches the fitting can be formed from various base materials including glass and plastics. Examples of suitable plastics include acrylics, polyolefins such as polypropylene, polystyrene and polycarbonate.

As to claims 26 and 27:

Page 3, lines 4-9, teach that the luminescent material is preferably a rare earth metal such as europium. Additionally, the luminescent material preferably also comprises an alkaline earth metal, which is preferably strontium.

Page 6, lines 5-11, teach that the preferred embodiment of the luminescent material comprises europium or dysprosium preferably in combination with strontium oxides or aluminates. It is held that one of ordinary skill in the art would at once envisage the luminescent material comprising strontium aluminate(s) and europium.

Regarding the distance between the light tube and light fitting:

Stob teaches:

Column 2, lines 12-46, figures 4, 5, 6, teach a sleeve for receiving a conventional fluorescent element which is closed off at opposite ends by end caps. The sleeve provides protection for the tube and assists in controlling the direction of the observed light output. The passage additionally teaches that the tube can be rotated relative to the element. The figures indicate a uniform spacing between the fluorescent tube and longitudinal sleeve wall.

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Column 5, lines 1-10, figure 4, teach end caps that slidably engage the wall of the tube.

Column 5, lines 22-27, figure 4, teaches the end caps further comprise apertures (50) through which the prongs of the element (52) can penetrate.

It would have been obvious to one of ordinary skill in the art to provide a protective sleeve as taught by Stob as the base material to the sleeve of Baillie to provide protection to the fluorescent tube and to allow for control of the direction of emission of light from the fixture of Baillie as suggested by Stob.

Response to Arguments

5. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues with respect to the rejection over Baillie in view of Vakil and Stob that Stob fails to teach or suggest a friction fit end piece and that Stob teaches away from such an arrangement. The examiner respectfully disagrees for the reasons below.

The end cap of Stob comprises parts (42) and (44) in figure 4 of Stob the parts allow the tube to frictionally contact the end cap portion which also comprises the aperture (42), while also friction fitting with the end of the longitudinal portion of the sleeve via portion (44).

Applicant also argues that because Stob requires free rotation and there is no sleeve taught in Baillie or Vakil the references are not combinable. The examiner respectfully disagrees for the reasons below.

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Baillie teaches the light fittings include covers of light sources and strip light protective sleeves. Stob also teaches the sleeve is protective of the light tube. As such both references are directed to analogous art. Also, there is no teaching in Baillie that would preclude rotation of the cover relative to the light tube. Baillie teaches the covers as lamp shades and covers. One would expect that a lamp shade's position can be adjusted without damage to the light tube. Similarly, if the lamp shade or cover is bumped it offers protection to the light tube. Therefore, it is considered that the incorporated teachings of Stob would not destroy the functionality of the principle reference Baillie.

Vakil teaches various configurations of the light tube, end cap, cover and base that include friction fit connections. The use of such connections to secure the light tube would similarly not destroy the functionality of the principle reference, Baillie.

A PTO-892 is included with this office action listing Stob and Cicarelli which were discussed in the interview of 20 November 2008. The references are also indicated on the interview summary form.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brett A. Crouse whose telephone number is (571)-272-6494. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Lawrence Tarazano can be reached on 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. A. C./
Examiner, Art Unit 1794

/D. Lawrence Tarazano/
Supervisory Patent Examiner, Art Unit
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